

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MIRA BLANCHARD, ET AL.,
Plaintiffs,
v.
REWARD ZONE USA LLC, et al.,
Defendants.

Case No. [17-cv-04497-MMC](#)

**ORDER STRIKING WITHOUT
PREJUDICE PLAINTIFFS' CLAIM
AGAINST NORTH ISLAND
MARKETING CORPORATION**

Before the Court is plaintiffs' Second Amended Complaint ("SAC"), filed October 6, 2017. Having read and considered the SAC, the Court rules as follows.

By order filed September 22, 2017, the Court afforded plaintiffs leave to file a Second Amended Complaint for purposes of (1) amending their claim against Sauphtware Inc. d/b/a Panda Mail ("Panda Mail") (see Order, filed September 22, 2017, at 8:12-19), (2) substituting "Fluent LLC" for "Fluent Inc." (see id. at 10:14-19) and (3) making certain other amendments, as identified in the order (see id. at 11:4-5, 11:9 - 12:12, 12:22-23.) The Court, however, denied plaintiffs leave to add any new defendants and to substitute the names of specified entities, including North Island Marketing Corporation ("North Island"), for "Doe" defendants.


On October 6, 2017, plaintiffs timely filed an SAC, in which they have amended their claim against Panda Mail, substituted "Fluent LLC" for "Fluent Inc.," and made the other amendments for which they were given leave. Plaintiffs, however, also substituted North Island as a defendant in place of "Doe 1." (See SAC ¶ 28.)

As the Court denied plaintiffs leave to substitute North Island for a "Doe" defendant, plaintiffs' claim against North Island is hereby STRICKEN, without prejudice to

1 plaintiffs' "filing a renewed motion, accompanied by a different proposed amended
2 complaint," in which plaintiffs "allege facts" to support a finding that North Island violated
3 § 17529.5 of the California Business and Professions Code (see Order, filed September
4 22, 2017, at 9:23 - 10:1),¹ i.e., facts showing North Island "advertise[d] in a commercial e-
5 mail" containing false or misleading information, see Cal. Bus. & Prof. Code § 17529.5(a),
6 and in which plaintiffs "comply with Rule 9(b)" (see Order, filed September 22, 2017, at
7 10:1-3).

8 **IT IS SO ORDERED.**

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10 Dated: October 26, 2017


MAXINE M. CHESNEY
United States District Judge

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26 ¹Other than facts pertaining to North Island's citizenship (see SAC ¶ 28), the only
27 allegations in the SAC specific to North Island are conclusory assertions that North Island
28 is "related" to existing defendant AdReaction (see id.), and that "AdReaction and North
Island advertised in, sent, hired others to send, or otherwise conspired to send" 397
commercial emails sent to plaintiffs (see SAC prayer for relief ¶ D).